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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,713	09/04/2003	Angela McAree	22500-RA	7305
30184	7590	07/05/2005	EXAMINER	
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C. 1899 POWERS FERRY ROAD SUITE 310 ATLANTA, GA 30339			BENNETT, GEORGE B	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/654,713	MCAREE, ANGELA	
	Examiner	Art Unit	
	G. Bradley Bennett	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 May 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 and 25 is/are pending in the application.
 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-13 and 25 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 04 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Invention I in the reply filed on 23 MAY 2005 is acknowledged. The traversal is on the ground(s) that there would be no serious burden for the examiner to examine both Inventions I and II simultaneously. This is not found persuasive because Invention II requires a separate search because the claimed subject matter involves windows, whereas the claimed subject matter of Invention I does not involve windows. As such, the two inventions have different searches and will require different considerations. Since the Applicant has canceled Invention III, the arguments concerning it are moot.

The requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims 14-20 drawn to an invention nonelected with traverse in Paper No. 052305. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5, 7-9, 11, 12 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ilagan in view of Bosco.

5. Ilagan discloses the invention substantially as claimed where: **26** is a moveable arm pivotally attached to a base **54**; **34** is a leg attached to a base; **24** is a mounting means for attaching the device to an object being measured; and the base is also semicircular in shape. However, Ilagan does not disclose projections as claimed. Bosco teaches how projections **34** may be used in conjunction with a rotatable member for the purpose of locking the rotatable member in a fixed position. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use projections as taught by Bosco in conjunction with the rotatable member of Ilagan for the purpose of locking the rotatable member of Ilagan in a fixed position.

6. Claims 3, 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ilagan and Bosco as applied to claim 2 above, and further in view of Cheatham.

7. Ilagan and Bosco disclose the invention substantially as claimed. However, neither Ilagan nor Bosco disclose that a leg attached to the base is extendible in the manner as claimed. Cheatham discloses how two legs **21**, **31** may be extendibly attached to a base **11** for the purpose of allowing a measuring device to be adjustable in size. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use extendible legs as taught by Cheatham in conjunction with the combination of Ilagan and Bosco for the purpose of rendering the combination adjustable.

8. Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ilagan and Bosco as applied to claims 5 and 1, respectively above, and further in view of Acopulos.

9. Ilagan and Bosco disclose the invention substantially as claimed. However, neither Ilagan nor Bosco disclose pins as the attaching means or indicia on the pivotal member as

claimed. Acopulos discloses how a pin **62** may be used for the purpose of attaching a measuring device to an object to be measured. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use a pin or pins as taught by Acopulos in conjunction with the combination of Ilagan and Bosco for the as an alternative means for attaching the combination to an object to be measured. Acopulos also discloses indicia **32** on a pivotal arm for the purpose of allowing quantitative measurements to be made with the arm. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use indicia as taught by Acopulos in conjunction with the combination of Ilagan and Bosco for the purpose of allowing quantitative measurements to be made with the combination.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Bradley Bennett whose telephone number is 571.272.2237. The examiner can normally be reached on M-TH 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on 571.272.2245. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).


G. Bradley Bennett
Primary Examiner
Art Unit 2859

gbb
30 JUN 2005